HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 15885 OF 1999

DATED: 16.7.2007

Between:

R. Subba Rao and another

… Petitioners

and

The State of A.P., represented by the
District Collector, Chittoor and others

… Respondents

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 15885 OF 1999

ORAL ORDER:

The petitioners approached this court and filed the present writ petition with the following prayer.

> ***"For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the Respondents herein to implement the names of petitioners in Revenue Records in terms of the Rough Patta issued dated 16.6.1958 as confirmed in S.R.No.20/2/59/PGN, dated 31.3.1968 and also direct the Respondents to dispose of the Representation filed by petitioner under Act 26 of 1948 and pass such other order."***

The case of the petitioners is that with the advent of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'the Act'), the ryots in possession of land in the erstwhile estates were granted pattas as per the settlement done by the Government. As the 1st petitioner, the grandfather of the 2nd petitioner and others were the ryots at the time of the said Act or the date of notification dated 22.7.1952, the then Settlement Officer granted Rough Pattas in their favour on 16.6.1958. The said grant of Rough Patta was only after holding due enquiry and verification of pre-

abolition records. Questioning the said grant of Rough Pattas, some individuals approached the Assistant Settlement Officer stating that the Rough Pattas ought not to have been granted in favour of the petitioners and on the basis of the same, ***suo motu*** enquiry was initiated under Section 15 (1) of the Act. The petitioners as well as the objectors were heard and ultimately the said Assistant Settlement Officer by his proceedings in S.R.No.20/2/59/PGN dated 31.3.1968 observed that the said objectors cannot be treated as landholders and the ***suo motu*** enquiry initiated under Section 15 (1) of the Act cannot be proceeded further, taking the fact that Rough Patta was already granted under Section 11 (a) of the Act on 16.6.1958 in favour of the petitioner and the 2nd petitioner's grandfather.

In the said order, it was also observed that if any body is aggrieved by the grant of the said Rough Patta, their remedy is to approach the revisional authority as provided for under Section 56 (1) of the Act and thus rejected their claim and dropped all further proceedings. Against the said orders, the said objectors preferred an appeal before the Estates Abolition Tribunal in CMP No.108 of 1975 and the Tribunal also dismissed the said appeal on 18.11.1982.

Questioning the said orders, the objectors filed W.P.No.926 of 1983 and a learned Single Judge of this court by order dated 2.12.1987 dismissed the said writ petition observing that the said orders do not suffer from any infirmity or error so as to call for interference in exercise of the jurisdiction of this court under Art.226 of

the Constitution of India.

In the light of the said orders passed by this court in the said writ petition and since no revision was filed by the objectors, as provided for under Section 56 (1) of the Act, the order granting Rough Pattas in favour of the 1st petitioner and the grandfather of the 2nd petitioner had become final. The petitioners thereafter inherited the property in question and approached the Collector for a direction to the authorities for implementation of the orders passed by the Assistant Settlement Officer i.e., granting of Rough Patta and also for correction of 10 (1) and 2 (1) Adangals and mutate the names of the petitioners. However, the authorities have not acted upon observing that it is only a rough patta and they have to approach the competent authority for getting a permanent patta. Of course, it was verbal but not written and hence they approached this court and filed the present writ petition with the above prayer.

A counter affidavit is filed on behalf of the respondents stating that the grant of rough patta will not confer any title and the petitioners have to obtain regular patta if they want to get their names mutated in the revenue records and most of the facts are admitted and as stated above, the said representations as per the counter affidavit were not considered because they were only rough pattas.

Heard Sri S.V. Bhatt, learned counsel for the petitioners and the learned Government Pleader for Revenue.

No doubt, the petitioners are having only rough pattas and the

same were given by the Assistant Settlement Officer. The grant of a rough patta is only a notice issued to the registered owner with a view to enable him to make his representations with regard to the proposed revision of rates, taram and other particulars mentioned in the said rough patta. It is also clear that the grant of rough patta does not confer any title, but once there is a rough patta, this court is of the view that the respondents are under an obligation to see that the revenue records are modified and the names of the petitioners or their forefathers entered in the revenue records.

It is not for the authorities to again direct the petitioners to approach the Collector for grant of permanent pattas. In fact, it is not what is provided for under the Act. When once a rough patta is granted, in my considered view, that is sufficient and if any person has any objection, the only remedy left open is to file a revision as provided for under Section 56 (1) of the Act. In fact, the objectors were opposing the grant of said rough patta and the authorities including this Court have given findings that the forum chosen by the objectors is wrong and the remedy is to file a revision before the competent authority and as the said revision is not filed either by the said objectors or by the revenue authorities, it shall for all purposes be construed to have become final.

Of course, the said rough patta cannot be termed as a document of title or as constituting evidence of title. The issuance of the said rough patta is one of the steps taken in the process of carrying out resettlement operations in respect of a ryotwari area and it has no

bearing at all on the question of title to the holding itself. The said rough patta was only on the basis of the result of an enquiry and hence it cannot be said that a further grant of regular patta is contemplated either under the provisions of the Act or the instructions issued from time to time.

The only purpose of grant of rough patta is to enable the settlement authorities to carry out the necessary changes in the revenue records on the basis of the said orders and the revenue authorities i.e., the respondents have no option except to carry out the same in the said records. In fact, this view of mine is further fortified by the judgment of this court, as early as in the year 1970, in ***ELUMALAI CHETTY V. RATHNAVELU CHETTY ([1]).***

Hence, the inaction on the part of the respondents in not carrying out the required amendment in the revenue records on the basis of the rough patta granted in favour of the 1st petitioner and the grandfather of the 2nd petitioner on 16.6.1958, is nothing but illegal and accordingly the respondents are hereby directed to carry out the necessary amendments in all the revenue records and mutate the names of the petitioners as pattadars.

For the foregoing reasons, the writ petition is allowed. There shall be no order as to costs.

GOPALA KRISHNA TAMADA, J

Date: 16.7.2007

cvm

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[1] . **1971 (2) AN.WEEKLY REPORTER 193**